Criminal Revision no.68 of 2003

Vijai Mamgai and another ---------- Revisionists

Versus

State of Uttaranchal

---------- Respondent

Hon'ble M.M.Ghildiyal J.

This is a revision against the order dated 05.02.2003 passed by Additional Sessions Judge/Fast Track Court, Pauri in sessions trial no.1 of 2000 allowing the application no. 19 Kha moved by the prosecution and rejecting objection 33 Kha filed by the accused-revisionist and framing additional charge under sections 366/511 I.P.C. by invoking jurisdiction under section 216 Cr.P.C.

The facts of the case are that the complainant lodged a FIR against the revisionists on 28.2.2000 under sections 366/511/506 I.P.C. The matter was investigated and statements of the complainant and the witnesses were recorded under section 161 Cr.P.C. After completing the investigation the Investigating Officer submitted chargesheet under section 3 (i)(x) of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act and under sections 504/506 IPC. During the trial the statement of the complainant was recorded and on the basis of the said statement application 19 Kha for framing of additional charge under sections 366 and 511 IPC, was allowed. Aggrieved against this order framing of additional charge revision has been filed.

The learned counsel for the revisionist has submitted that no case is made out under sections 366/511 IPC and as such the chargesheet may be quashed. It is well settled law that the learned trial court has jurisdiction to add or alter change in case a case is made out prima facie on the basis of evidence during trial. The charge can be altered or added at any stage before the judgment is pronounced. I find no illegality in the order passed b by the

Additional Sessions Judge/Fast Track Court, Pauri. However, in the circumstances of the case, it would be proper to direct the learned trial court to conclude the trial expeditiously as early as possible.

With these observations the revision is finally disposed of.

(M.M.Ghildiyal, J.)

May 19, 2003
MPS